

priority or, if deemed advisable to preserve flexibility in implementing 47 U.S.C. §309(j), conflicting applications could be held in pending status for a ninety-day settlement window and, if conflicts remained unresolved, could be returned without consideration.²²

Upon completion of construction, the applicant could apply for and would receive a normal TV translator license, with a condition stating that it could not increase power or add LPTV features, without first submitting the long-form application (FCC Form No. 346). First-in-time priority would exist equally among Fast-Track, other translator and LPTV services. Major modifications consistent with Fast-Track eligibility would be eligible for future Fast-Track application, while upgrades to increase power or to add origination or other LPTV features would necessitate a complete LPTV or translator submission.

In a further effort to simplify processing, so far as possible, NTA advocates that the Commission make Fast-Track applications categorically exempt from filing fees. In the vast majority of instances, the rural translator operators are non-profit, *de jure* or in practice, or they are government entities. Where translator operators are volunteer clubs or individuals, they equitably should be exempted from fees, even if they do not have or are unable to prepare the exacting documentation required by Sec.

²² Applicants would be cautioned, by rule, public notice, or otherwise, that all action on competing applications would be deferred, pending the completion of MM Docket No. 97-234.

1.1114 of the Rules.²³ Here the streamlined license process is intended to impose the least possible cost for processing, and an appropriate fee related to the Agency's expense of administration would hardly exceed the cost of collection. Because the Commission is required by law to establish its fee structure from year to year, this issue could be revisited separately, should any pattern of abuse present itself in the future.

IV. CONCLUSION

In 1975, the late E. B. Craney, a broadcast pioneer known as the "father" of our Association, delivered a speech recalling the battles to secure legal standing for TV translators, especially from 1958 to 1960. The FCC was most inhospitable, but Craney found a receptive ear with Commissioner T.A.M. Craven, the only Commissioner, then or since, who had received his education and training as a radio engineer. As Craney remembered,

Mr. [John C.] Doerfer when Chairman was 100% against translators. We met with him in Denver and got nowhere. T.A.M. Craven, the Commissioner who was an engineer, said these little translators should be called "aids to reception" and given "certificates of necessity" upon a letter application with provision for closing them down if they caused interference.

Forty years later, we recall that exchange, and here honor the kernel of wisdom in Commissioner Craven's approach.

Interestingly, the transmitter powers being discussed in the late

²³ The rural service needs being addressed by the proposed Fast-Track authorization can be usefully compared with Instructional Television Fixed Service, which is categorically exempt from fees, §1.1114(e)(4), not based on a showing non-profit structure, but based on primary use in the provision of instructional service related to accredited schools, see §74.931.

1950's, and soon adopted, are just the same as what NTA urges now for Fast-Track licensing.

More recently another Commissioner, noting that he had met with the representative of hundreds of organizations, concluded that, "Too often groups come in, hat in hand, asking that we impose, modify, eliminate or even retain this or that policy simply because their constituents would benefit from such action." The message is, "We want us some."²⁴

The members of our Association largely are unpaid volunteers who entered the fray to deliver rural TV service, where no one else could or would. Others represent counties where the citizens have voted in favor of specialized taxes, again and again, to support minimal TV reception capabilities. We happily accept the challenge from Commissioner Powell to find solutions that better serve the public, especially "as we contemplate how to give potentially marginalized groups a chance to participate in the telecom arena." We need, he said, "to work more to develop innovative, thoughtful, and well-reasoned public policy proposal and leave emotional rhetoric at the door."

In a concluding thought, NTA notes that, as the DTV transition unfolds, it is certain that translators will be authorized, indeed called upon to rebroadcast DTV stations. The ability of rural TV operators to add one, or several new channels for DTV may be an important asset in assuring that DTV services

²⁴ Remarks of Hon. Michael K. Powell before the Douglass Policy Institute, Washington, D.C., February 17, 1998.

become available to rural communities, while existing NTSC services are retained for as long a period as is permitted or desirable. The instant proposal is a practical means for existing translator system to build up their channel capacity by increments, as they are able. It is one technique to accommodate some of the expanded service needs that impend.

Wherefore, the NATIONAL TRANSLATOR ASSOCIATION respectfully requests that the Commission institute rule making, looking to the inauguration of Fast-Track authorization for TV translators, to meet the needs of rural residents, as described herein.

Respectfully submitted,

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March 18, 1998.

Fast Track TV Translator Application

FOR COMMISSION USE ONLY
FILE NO.

SECTION 1 - GENERAL INFORMATION		
1. APPLICANT NAME (Last, First, Middle Initial)		
MAILING ADDRESS (Line 1) (Maximum 35 characters)		
MAILING ADDRESS (Line 2) (Maximum 35 characters)		
CITY	STATE OR COUNTRY (if foreign address)	ZIP CODE
TELEPHONE NUMBER (include area code)	CALL LETTERS OR OTHER FCC IDENTIFIER (IF APPLICABLE)	

Community to be served: _____; State: _____; Channel: _____
 New translator (); Modification of _____ (Call sign)
 Applicant is: () Individual () Corporation () Governmental Entity
 () Educational Institution () Other (Describe _____)

Fast track Application Self Certification Check List*

Legal Qualifications

- | | Yes | No |
|---|-----|-----|
| 1. Applicant is in compliance with the provisions of Section 310 of the Communications Act, as amended, relating to interests of aliens and foreign governments and that no funds have been provided by non-qualified sources. | () | () |
| 2. Applicant is not subject to a denial of federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 | () | () |

Eligibility

- | | | |
|--|-----|-----|
| 3. The community or area to be served is in a "white area"
(an area where there are no more than three commercial signals providing actual Grade B coverage) | () | () |
| 4. Applicant has provided notice to licensees and permittees of full service and LPTV stations and translators within the following distances and () has, () has not been notified of any objection which remains unresolved:
a) full service stations: cochannel 75 miles, adjacent channel 65 miles
b) LPTV and translator stations: cochannel 35 miles, adjacent channel 25 miles | () | () |
| 5. Local public notice has been given twice, approximately a week apart in the closest local newspaper:
a) name of newspaper _____
b) dates of publication _____ | | |
| 6. Written rebroadcast permission has been obtained from the primary station | () | () |

Technical

- | | | |
|---|-----|-----|
| 7. Applicant certifies type accepted equipment will be used | () | () |
| 8. Airspace determination (must have one box in this group checked yes)
a) antenna and structure will not exceed the height limitations in §§ 17.7 and 17.14 | () | () |
| b) antenna will be mounted on and not increase the height of an existing structure | () | () |
| c) a "no hazard determination" has been obtained from the Federal Aviation Administration (copy attached) | () | () |

Instruction

Include Page 3 from a current Form 346 (engineering information for this station to be entered in the FCC Engineering Database). It will then be entitled to protection from future new stations or changes according to the same interference criteria as other Part 74 stations. If the antenna is directional and not in the Commission's Antenna Database include a description & relative voltage tabulation at 10° intervals.

Certification

Applicant understands that the FCC has made no determination of possible interference by the proposed translator to stations of any kind and building the station is at his/its own risk and acknowledges that, if this translator does in fact cause interference, it will be required to modify its operation including changing channel or ceasing operation if no lesser remedy is available.

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by licence or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all of the statements made in this application and attached exhibits are considered material representation and that all exhibits are a material part hereof and incorporation herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be conflict.

WILLFUL FALSE STATEMENT MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENCE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1), AND/OR FORFEITURE (U.S. Code, TITLE 47, SECTION 503)

I certify that the statement in this application are true, complete and correct to the best of my knowledge and belief, and are made in good faith.

Signed by _____ Title _____ Date _____

*Fast track application procedure limited to transmitter power of 1 watt (VHF) OR 10 Watts (UHF) and heterodyne repeater operation.

For FCC Use

File Name: _____ Call Sign: _____

Construction Permit Granted Date: _____ Expires 12:01 AM: _____

Painting and Lighting Conditions Attached Yes() No()

Authorizing Official _____

SEAL

Attachment B.

TEXT OF PROPOSED RULES

1. Section 73.3572 is amended by adding paragraph (h) to read as follows:

Section 73.7572 Processing of TV Broadcast, Low Power TV, TV Translator and TV Booster Station Applications

*** * * * ***

(h) Fast-Track translator applications are to be filed using the Fast-Track Application Self Certification Check List (Form No. 333). Fast-Track applications are limited to facilities that will not exceed the power limitations given in §74.735(d).

(1) A Fast-Track translator application will not be accepted for filing unless the applicant certifies that the service area specified is not within the predicted Grade B contour (computed in accordance with §73.684) or actually received Grade B countour of more than three full service commercial television broadcast stations licensed under Subpart E of Part 73, beginning with §73.601.

(2) Prior to filing a new or major-change Fast-Track application, the applicant shall give written notice of the filing to each licensed station within a prescribed radius of the proposed facility as follows:

(A) For full service television broadcast stations licensed under Part 73, Subpart E: within 75 miles of a co-channel station and within 65 miles of an adjacent channel station.

(B) For low power television broadcast stations licensed under Part 74, Subpart G, beginning with §74.701: within 35 miles of a co-channel station and within 25 miles of an adjacent channel station.

(3) Fast-Track applications are exempt from the local public notice requirements of §73.3580.

(4) Fast-Track applications will be reviewed for completeness of the Self-Certification checklist, and provided they are complete, public notice shall be given of acceptance for filing in Broadcast Applications, in the order received and within two weeks of filing.

(5) Petitions to deny Fast-Track applications will not be entertained unless served on the applicant. Applications having unresolved petitions to deny will remain in pending status and will not be subject to Fast-Track guidelines for expedited processing.

(6) Mutually exclusive Fast-Track applications cannot be processed or granted at this time. Not less than 30 nor more than 60 days after public notice of acceptance for filing of a mutually exclusive application, the staff will inform the applicant in writing of the conflict, and afford 90 days for resolution of the conflict by mutual consent of the affected parties or by engineering modifications. Upon the expiration of 90 days, or such additional time as may be granted by the staff, applications remaining in conflict will be returned without consideration.

(7) Complete and sufficient Check-List applications, not subject to petitions to deny, and being not mutually exclusive with other authorized users, shall be found legally, technically and otherwise qualified and the construction permit shall be granted, in all instances within 45 days of their acceptance for filing. Applicants notified by the staff of a deficiency shall be granted a construction permit, in all instances within 30 days of the submission of information curing the deficiency.

(8) Fast-Track major modifications shall be processed under the same guidelines, in the same manner and with the same priorities as new Fast-Track applications.

(9) An applicant seeking later to modify a licensed Fast-Track facility, or Fast-Track construction permit, to include power levels in excess of the maximum permitted, or to utilize satellite feed, or to add other low power television features, shall utilize Form No. 346, and such application will not be processed under the Fast-Track provisions.

2. Section 74.701 is amended by adding paragraph (h) to read as follows:

Section 74.701 Definitions

* * * * *

(h) Fast-Track Translator

A Fast-Track translator is a conventional translator authorized under expedited procedures in §73.3572(h). Unless stated otherwise, a Fast-Track translator is subject to the same rules as any other television broadcast translator station as defined in this section.

3. Section 74.735 is amended by adding paragraph (d) to read as follows:

Section 74.735 Power Limitations

* * * * *

(d) A Fast-Track translator authorized under §73.3572(h) shall not exceed transmitter output power limits of:

(1) one watt for VHF channels 2-13; and

(2) ten watts for UHF channels 14-69.

4. Section 74.731 is amended by adding subparagraph (b)(3) to read as follows:

* * * * *

(3) A Fast-Track translator authorized under §73.3572(h) shall not obtain any program input by use of space satellites.

5. Section 74.751 is amended by adding subparagraph (b)(6) to read as follows:

* * * * *

(b) Formal application (Form 346) is required for any of the following changes:

* * *

(6) For a translator authorized under Fast-Track procedures in §73.3572(h), any change that would exceed the power limitations of §74.735(d); any use of modulation feed otherwise permitted by §74.731(b)(2) in excess of thirty seconds per hour; or any use of program input delivered by space satellite.

6. Section 73.3500 is amended by adding the following Form and Form Number:

Section 73.3500 Application and Report Forms

333 -- Fast-Track Application Self-Certification Check-List

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